

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

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ARTURO T. OCHOA,

Plaintiff,

v.

B. JACKSON, et al.,

Defendants.

Case No. 3:14-cv-00090-MMD-VPC

ORDER

Plaintiff Arturo Torres Ochoa, who is in the custody of the Nevada Department of Corrections, has submitted a handwritten complaint seeking to initiate a civil rights action.

The papers presented are subject to substantial defects.

First, plaintiff, a frequent filer in this District, neither paid the filing fee nor submitted a pauper application.

Second, the entirely handwritten complaint was not submitted on the Court's complaint form as required by Local Rule LSR 2-1.

It does not appear from review of the allegations presented that a dismissal without prejudice of the present improperly-commenced action would lead to a promptly-filed new action being untimely or otherwise result in substantial prejudice.

The Court notes in this regard that plaintiff has filed numerous meritless, frivolous and/or delusional actions in this district. As a result, the Court has found plaintiff subject to the "three strikes" provisions of 28 U.S.C. § 1915(g) in 3:10-cv-00483-ECR-VPC (dkt. no. 7). Under § 1915(g), a prisoner who has brought three or more frivolous or

1 meritless actions may not proceed *in forma pauperis*; and he instead must pay the full
2 filing fee in advance, unless he is under imminent danger of serious physical injury.

3 Plaintiff alleges in the present complaint that correctional officers have tampered
4 with his food. This allegation of imminent danger, however, is delusional or frivolous.
5 Plaintiff has made substantially the same allegation in a number of actions. See, e.g.,
6 3:12-cv-00285-MMD-VPC; 3:12-cv-00276-HDM-VPC; 3:12-cv-00239-RCJ-VPC. The
7 Court held a hearing on the allegation in 3:12-cv-00239-RCJ-VPC and confirmed that
8 the allegation indeed is wholly baseless.

9 Plaintiff accordingly will sustain no substantial prejudice from the dismissal of this
10 improperly commenced action without prejudice.


11 It is therefore ordered that this action shall be dismissed without prejudice to the
12 filing of a new complaint on the required form in a new action together with either a new
13 pauper application with all required attachments or payment of the \$350.00 filing fee.

14 The Clerk of Court shall send plaintiff a copy of the papers that he filed along with
15 the complaint and pauper forms and instructions for both forms.

16 The Clerk shall enter final judgment accordingly, dismissing this action without
17 prejudice.

18 DATED THIS 27th day of February 2014.

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MIRANDA M. DU
UNITED STATES DISTRICT JUDGE